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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 97-112

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. Introductory units of a rule should conclude with a phrase such as “all of the following:” or “any of the following:”. [See s. 1.03 (8), Manual.] The rule uses a number of introductory units, e.g., s. DWD 80.02 (1) (intro.) and (2) (intro.) and (e) (intro.). The rule’s use of introductory units should be reviewed for compliance with the correct drafting style so that the rule’s requirements are clear.

b. If the rule does not amend s. DWD 80.02 (3) (intro.), it should not be reproduced in the rule. However, it is noted that the cross-reference to “s. 601.64” contained therein should be followed by “, Stats.,”.

4. Adequacy of References to Related Statutes, Rules and Forms

It would be helpful if a note were included in the rule indicating where the various reporting forms can be obtained. [See s. 1.09 (2), Manual.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the first sentence of s. DWD 80.02 (1) (intro.), the modifier “its” should be clarified by substituting the phrase “the employer’s.” In addition, the end of the first sentence refers to “other means” of reporting “authorized by the department.” Where are these other means authorized? The other means should be identified in the rule or the rule should be

amended to clarify that the other means will be approved on a case-by-case or other basis. Finally, the last sentence requires an employer to notify the insurance carrier of a compensable injury after the accident or beginning of a disability from occupational disease. For purposes of clarity, it may be advantageous to clarify that the accident and the occupational disease must be related to the compensable injury, if that is the rule's intent.

b. In s. DWD 80.02 (1) (a), the second sentence should be clarified. What is Sunday to be included in? Must the employee regularly work on Sunday? Could the sentence be rewritten as follows: "In determining the duration of an employee's disability, Sundays shall be counted only if the employee regularly works on Sunday."? This comment applies also to the second sentence of s. DWD 80.02 (2) (a).

c. Whose insurance carrier is being referred to in s. DWD 80.02 (1) (b)? The footnote appears to indicate that it is the employer's insurance carrier. The substantive provision of the rule should be clarified accordingly.

d. A comma should be inserted after the reference to "sub. (3m)" in s. DWD 80.02 (2) (intro.).

e. In s. DWD 80.02 (2) (b), the word "that" should be replaced by "the day."

f. Section DWD 80.02 (2) (c) should be modified to clarify if and when the estimated time of submission of the WKC-13-A must be made. For example, is the estimate to be included on the WKC-13 and submitted to the department?

g. Section DWD 80.02 (2) (e) should be amended to clarify the event that begins the accrual of the 30-day period. For example, is the report to be filed within 30 days of the accident or injury or within 30 days of the statement required under par. (d)? Also, what payments are required to be reported? Worker's Compensation payments? Wage payments? The rule should be clarified. Also, "current" should be deleted; the word is not used in other provisions of the rule that refer to forms.

h. Section DWD 80.02 (2) (e) 4. should be amended to clarify that the word "that" in the second sentence is referring to the impossibility of submitting the treating practitioner's final report with the WKC-13.

i. Section DWD 80.02 (2) (f) should be amended to clarify what payments are being referred to.

j. In s. DWD 80.02 (2) (h), the phrase "the claim" should be inserted after the word "investigating."

k. Section DWD 80.02 (3) (a) uses the phrase "within 14 days or less." In contrast, the current paragraph uses the phrase "in 14 days or less." If "within" is to be added to this phrase, it should be underscored and the word "in" should be stricken. If "within" is to be used, however, it is suggested that "or less" also be stricken to avoid any redundancy.